

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

DOCKET FILE COPY ORIGINAL

Amendment of Section 73.202(b))
Table of Allotments) MB Docket No. _____
FM Broadcast Stations) RM - _____
(Effingham, Kansas and)
Humboldt and Pawnee City, Nebraska))
)

RECEIVED

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To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

Federal Communications Commission
Office of Secretary

AMENDED PETITION FOR RULE MAKING

Cumulus Licensing LLC ("Cumulus"), permittee of Channel 244A, Humboldt, Nebraska, by its counsel, hereby amends its Petition for Rule Making filed on April 15, 2005.¹ The Petition proposed to (i) delete Channel 244A at Humboldt, Nebraska, and allot Channel 245C2 at Valley Falls, Kansas as that community's first local service, and (ii) allot Channel 256A at Pawnee City, Nebraska as that community's first local service.

Cumulus now wishes to amend its Petition to (i) delete Channel 244A at Humboldt, Nebraska, and allot Channel 245C2 at Effingham, Kansas (instead of at Valley Falls, Kansas) as that community's first local service, and (ii) allot Channel 272A at Humboldt, Nebraska. Cumulus' proposal to allot Channel 256A at Pawnee City, Nebraska as that community's first local service remains unchanged. If this Amended Petition is granted, Cumulus will file an application for Channel 245C2 at Effingham, Channel 256A at Pawnee City, and Channel 272A at Humboldt and construct the facilities as authorized. The following table summarizes the

¹ This amendment is necessary due to a recent planned acquisition by Cumulus that will have an effect on Cumulus' ownership in this area. This amendment will ensure that Cumulus is in compliance with the ownership rules.

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List ABCDE
MB 05-102

changes requested in this Amended Petition:

City	Channel	
	Existing	Proposed
Effingham, Kansas	---	245C2
Humboldt, Nebraska	244A	272A
Pawnee City, Nebraska	---	256A

I. Technical Analysis

1. As demonstrated in the attached Engineering Statement, Channel 245C2 can be allotted to Effingham at coordinates 39-22-11 North Latitude, 95-31-48 West Longitude consistent with Section 73.207 the Commission's Rules with respect to all existing and proposed domestic allotments and facilities. *See Exhibit 1.* A 70 dBu signal can be provided to Effingham from the proposed reference coordinates. *See Exhibit 2.* This relocation will result in a predicted net gain to a substantial area and population.

II. Change in Community of License

2. Cumulus desires to change the community of license from Humboldt, Nebraska to Effingham, Kansas under the guidelines set forth in *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recons. granted in part*, 5 FCC Rcd 7094 (1990). There, the Commission stated that a station may change its community of license without subjecting the license to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities.

3. These criteria are met here. First, the proposed use of Channel 245C2 at Effingham is mutually exclusive with the current use of Channel 244A at Humboldt. *See* Exhibit 1. Second, Humboldt will not be deprived of its only local service because the proposed station is an unbuilt facility. The Commission has held that the removal of unbuilt facilities does not present the same loss of service concerns as the removal of an operating station that the public has become reliant upon. *See, e.g., Linden, Texas, et al.*, 16 FCC Rcd 10853, 10854 (2001); *Grand Isle and Empire, Louisiana*, 15 FCC Rcd 9162, 9163 (2000); *Chatom and Grove Hill, Alabama*, 12 FCC Rcd 7664, 7665 (1997). Finally, the provision of a first local service to Effingham (2000 U.S. Census population 588), and the loss of a potential first local service at Humboldt (2000 U.S. Census population 941) both fall under Priority 3. *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). As discussed above, Cumulus is proposing to allot Channel 272A at Humboldt which will ensure that Humboldt retains a potential first local service. Channel 272A can be allotted to Humboldt at coordinates 40-13-55 North Latitude, 95-58-17 West Longitude consistent with Section 73.207 the Commission's Rules with respect to all existing and proposed domestic allotments and facilities. *See* Exhibit 3. A 70 dBu signal can be provided to Humboldt from the proposed reference coordinates. *See* Exhibit 4.

4. Cumulus recognizes that under Commission precedent the loss of local service cannot be cured through the provision of vacant allotments. *See Application of Pacific Broadcasting of Missouri LLC for Special Temporary Authorization to Operate Station KTKY(FM), Refugio, Texas*, 19 FCC Rcd 774 (2004) ("*Refugio*"). However, there is no loss of actual local service here, and thus the context in *Refugio* is distinguishable. In *Refugio*, the

Commission was concerned with replacing an existing local service. Here, Cumulus is proposing a vacant allotment to replace another vacant allotment (i.e. potential service).

5. Effingham is not located in an urbanized area, and the proposed 70 dBu contour will not cover more than 50% of the any urbanized area. Therefore, this relocation does not implicate the Commission's *Tuck* policy regarding the migration of stations into urban areas. Effingham is listed in the 2000 U.S. Census with a population of 588 persons. Therefore, Effingham is presumed to have the status of a community for allotment purposes. *See Arnold and Columbia, California*, 7 FCC Rcd 6302, ¶ 12 (1992). Effingham has its own local government and officials including a mayor, five member city council, city manager, and city clerk. Effingham also has a library, city pool, tree board, landfill, and fire department, and the City sets the water and sewer rates for the City. The Atchison County Unified School District administers the schools in Effingham, which include Effingham Elementary School. The U.S. Postal Service has assigned the 66023 zip code to Effingham and operates an office in Effingham at 407 Main Street. A number of business in Effingham identify with the community by using "Effingham" in their name, including Effingham Ambulance Service, Effingham Lawn Mowers Sales, Effingham Lock It & Leave It, Effingham Market, and Effingham Mini Storage. The Effingham Professional Building is also located in Effingham and is home to a number of health care and other professionals who work in Effingham. The City of Effingham is also home to a number of community organizations including Effingham Christian Church and Effingham Union Church. *See Exhibit 5.*

III. Conclusion

6. For the foregoing reasons the Commission should delete Channel 244A at Humboldt, Nebraska, and allot Channel 245C2 to Effingham, Kansas, as that community's first local service. The Commission should also allot Channel 256A to Pawnee City, Nebraska, and

Channel 272A to Humboldt, Nebraska. Cumulus reiterates that if the Commission allots Channel 245C2 to Effingham, Channel 256A to Pawnee City, and Channel 272A to Humboldt, it will file applications and construct the facilities as authorized. The Commission should promptly issue a Notice of Proposed Rule Making as described herein.

Respectfully submitted,

CUMULUS LICENSING LLC

By: 

Mark N. Lipp
Scott Woodworth
Vinson & Elkins L.L.P.
1455 Pennsylvania Ave, NW
Suite 600
Washington, DC 20004-1008
(202) 639-6500

Its Counsel

November 8, 2005

PETITION FOR RULE MAKING
CUMULUS LICENSING LLC
ALLOT CHANNEL 245C2
EFFINGHAM, KANSAS
November 2005

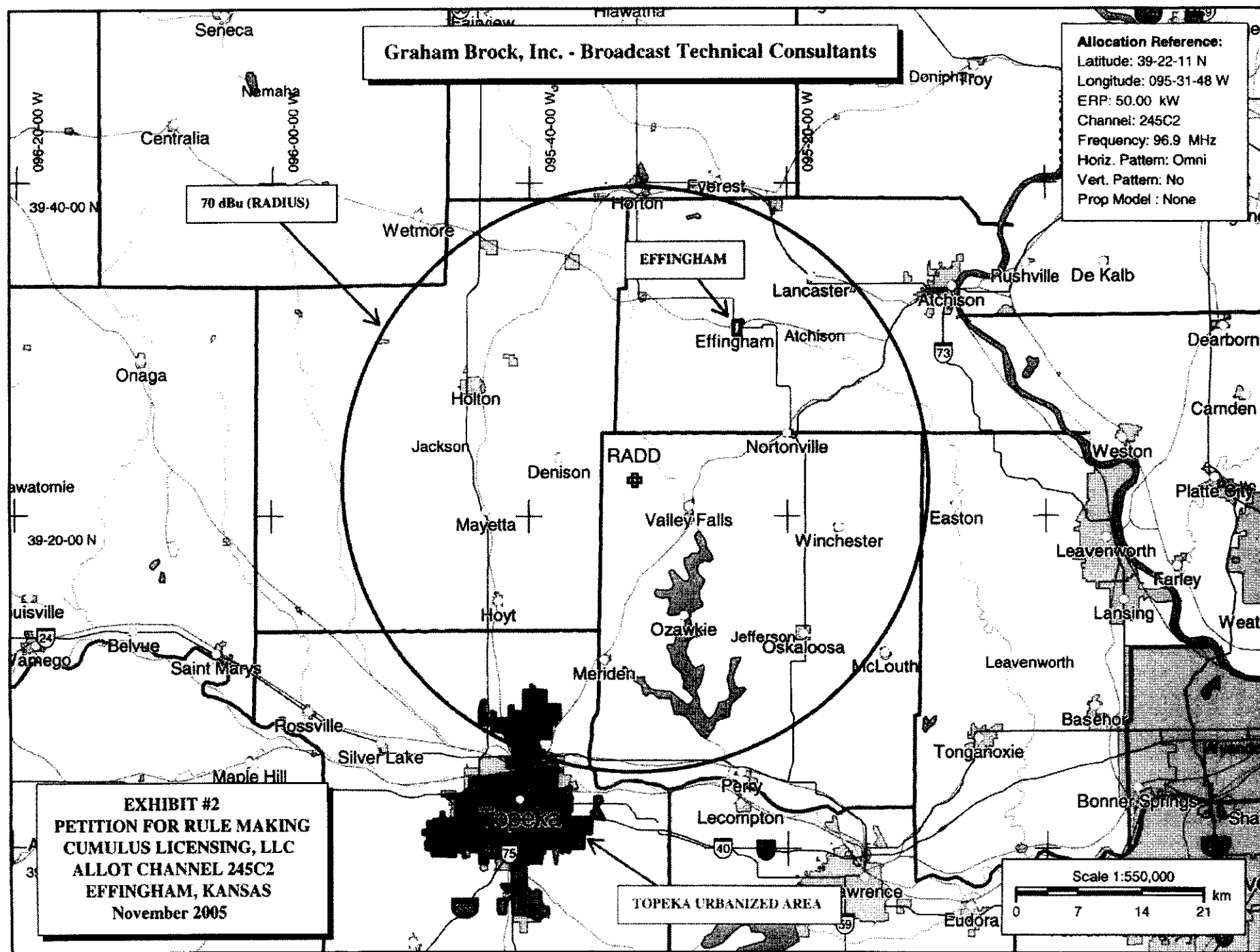
EXHIBIT #1

Graham Brock, Inc. - Broadcast Technical Consultants
St. Simons Island, GA - Washington, DC

Allocation study for Effingham, Kansas
Using proposed allocation site as reference

REFERENCE	CLASS = C2	DISPLAY DATES
39 22 11 N.		DATA 11-05-05
95 31 48 W.	Current Spacings	SEARCH 11-07-05
----- Channel 245 - 96.9 MHz -----		

Call	Channel	Location	Axi	Dist	FCC	Margin
Lat.	Lng.	Ant	Power	HAAT		
RADD	ADD 245C2	Effingham	KS	0.0	0.00	-190.00
	39 22 11	95 31 48	50.000 kW	150 M		
	Cumulus Licensing, LLC					
	> site restricted 21 kilometers southwest of community					
VA244	VAC 244A	Humboldt	NE	338.7	93.12	-12.88
	40 09 00	95 55 43 N	6.000 kW	100 M		
NEW .C	CP -Z 244A	Humboldt	NE	338.7	102.92	-3.08
	40 13 55	95 58 17 ZCX	6.000 kW	100 M		
	Cumulus Licensing LLC BNPB-20041230ADE					
RDEL	DEL 244A	Humboldt	NE	338.7	102.92	-3.08
	40 13 55	95 58 17	6.000 kW	100 M		
	Cumulus Licensing, LLC					
KZKX	LIC 245C1	Seward	NE	330.8	224.17	0.17
	41 07 26	96 50 03 CN	100.000 kW	177 M		
	Capstar TX Limited Partnership BLH-7204					
KNIMFM	LIC 246C3	Maryville	MO	22.7	123.26	6.26
	40 23 31	94 58 04 CX	21.500 kW	108 M		
	Nodaway Broadcasting Corp. BLH-20021022ABC					
KRBZ	LIC 243C0	Kansas City	MO	113.5	95.90	6.90
	39 01 20	94 30 49 C	100.000 kW	335 M		
	Entercom Kansas City License BLH-20030422ABI					
KKOWFM	LIC 245C1	Pittsburg	KS	164.6	236.75	12.75
	37 18 44	94 48 58 CN	100.000 kW	278 M		
	American Media Investments BLH-19891207KA					
KMAJFM	LIC 299C	Topeka	KS	221.2	50.67	15.67
	39 01 34	95 54 58 CN	100.000 kW	370 M		
	Cumulus Licensing LLC BLH-19861103KC					
RADD	ADD 244A	Emporia	KS	209.9	123.33	17.33
	38 24 21	96 14 13	6.000 kW	100 M		
	Dana J. Puopolo					
KCXM	LIC-N 247C1	Lee's Summit	MO	108.5	96.49	17.49
	39 05 26	94 28 18 NCX	55.000 kW	357 M		
	Union First Broadcasting BLH-20030130AAH					



PETITION FOR RULE MAKING
CUMULUS LICENSING LLC
ALLOT CHANNEL 245C2
EFFINGHAM, KANSAS
November 2005

EXHIBIT #3

Graham Brock, Inc. - Broadcast Technical Consultants
St. Simons Island, GA - Washington, DC

Allocation study for Humboldt, Nebraska
Using present Humboldt CP site (Channel 244A) as reference

REFERENCE		DISPLAY DATES
40 13 55 N.	CLASS = A	DATA 11-08-05
95 58 17 W.	Current Spacings	SEARCH 11-08-05
----- Channel 272 - 102.3 MHz -----		

Call	Channel	Location	Power	Azi	Dist	FCC	Margin
	Lat.	Lng. Ant			HAAT		
1) ADD	ADD 272A	Humboldt	NE	0.0	0.00	115.0	-115.00
	40 13 55	95 58 17	0.000 kW		0 M		
	Cumulus Licensing LLC						
	> channel site restricted 7.7 km northwest						
2) KLTQ	LIC 270C0	Lincoln	NE	348.5	92.77	86.0	6.77
	41 03 01	96 11 33 C	100.000 kW		365 M		
	Waitt Omaha, LLC BLH-20020214AAE						
RDEL	DEL 271C	Kansas City	MO	137.2	174.69	165.0	9.69
	39 04 20	94 35 45	100.000 kW		600 M		
	Big Country Of Missouri, Inc.						
KFRX	LIC 274C1	Lincoln	NE	318.6	87.46	75.0	12.46
	40 49 12	96 39 29 CN	100.000 kW		131 M		
	Three Eagles Of Lincoln, Inc. BLH-6363						
KSRC	LIC 271C	Kansas City	MO	134.2	180.61	165.0	15.61
	39 05 26	94 28 18 C	100.000 kW		341 M		
	Infinity Radio Inc. BLH-20010920AAG						
KZSR	LIC 272C1	Onawa	IA	351.0	218.55	200.0	18.55
	42 10 29	96 23 13 CN	100.000 kW		196 M		
	NRG Media, LLC BLH-19951120KG						
RADD	ADD 271C0	Kansas City	MO	137.2	174.69	152.0	22.69
	39 04 20	94 35 45	100.000 kW		450 M		
	Big Country Of Missouri, Inc						
KBLS	LIC 273C1	North Fort Riley	KS	206.7	158.83	133.0	25.83
	38 57 05	96 47 45 CN	100.000 kW		150 M		
	MCC Radio, LLC BLH-19921230KB						

- 1) Based on the proposed site for the channel being the same as that of the unbuilt permit at Humboldt, any theoretical loss caused by the relocation of the Channel 244A permit will be replaced by the proposed Class A channel
- 2) The Table of Allotments shows Channel 270C at Lincoln, Nebraska. However, station KLTQ downgraded to Channel 270C0 at Lincoln, Nebraska from Channel 270C and is now licensed at the lower class.

Graham Brock, Inc. - Broadcast Technical Consultants

Allocation Reference:
Latitude: 40-13-55 N
Longitude: 095-58-17 W
ERP: 6.00 kW
Channel: 272A
Frequency: 102.3 MHz
Horiz. Pattern: Omni
Vert. Pattern: No
Prop Model: None

70 dBu (RADIUS)

Johnson
Tecumseh

Johnson

Auburn
Nemaha

Peru

40-15-00 N

RADD

Stella

Shubert

Table Rock

Humboldt

Verdon

Pawnee

Pawnee City

Richardson

HUMBOLDT

Falls City

EXHIBIT #4
PETITION FOR RULE MAKING
CUMULUS LICENSING, LLC
ALLOT CHANNEL 245C2
EFFINGHAM, KANSAS
November 2005

Scale 1:350,000

0 4 8 12 km

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Cumulus Licensing LLC to prepare the attached Technical Exhibits #1 and #2.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 7th day of November, 2005.



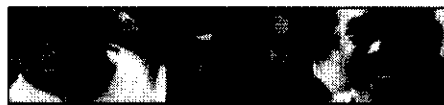
Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 7th day of November, 2005*



Notary Public, State of Georgia
My Commission Expires: September 3, 2007

EXHIBIT 5



U.S. Census Bureau

American FactFinder

FACT SHEET

Effingham city, Kansas

Census 2000 Demographic Profile Highlights:

General Characteristics - show more >>

	Number	Percent	U.S.		
Total population	588			map	brief
Male	279	47.4	49.1%	map	brief
Female	309	52.6	50.9%	map	brief
Median age (years)	37.7	(X)	35.3	map	brief
Under 5 years	35	6.0	6.8%	map	
18 years and over	425	72.3	74.3%		
65 years and over	101	17.2	12.4%	map	brief
One race	585	99.5	97.6%		
White	572	97.3	75.1%	map	brief
Black or African American	2	0.3	12.3%	map	brief
American Indian and Alaska Native	8	1.4	0.9%	map	brief
Asian	0	0.0	3.6%	map	brief
Native Hawaiian and Other Pacific Islander	0	0.0	0.1%	map	brief
Some other race	3	0.5	5.5%	map	
Two or more races	3	0.5	2.4%	map	brief
Hispanic or Latino (of any race)	3	0.5	12.5%	map	brief
Household population	588	100.0	97.2%	map	brief
Group quarters population	0	0.0	2.8%	map	
Average household size	2.49	(X)	2.59	map	brief
Average family size	3.12	(X)	3.14	map	
Total housing units	255			map	
Occupied housing units	236	92.5	91.0%		brief
Owner-occupied housing units	180	76.3	66.2%	map	
Renter-occupied housing units	56	23.7	33.8%	map	brief
Vacant housing units	19	7.5	9.0%	map	

Social Characteristics - show more >>

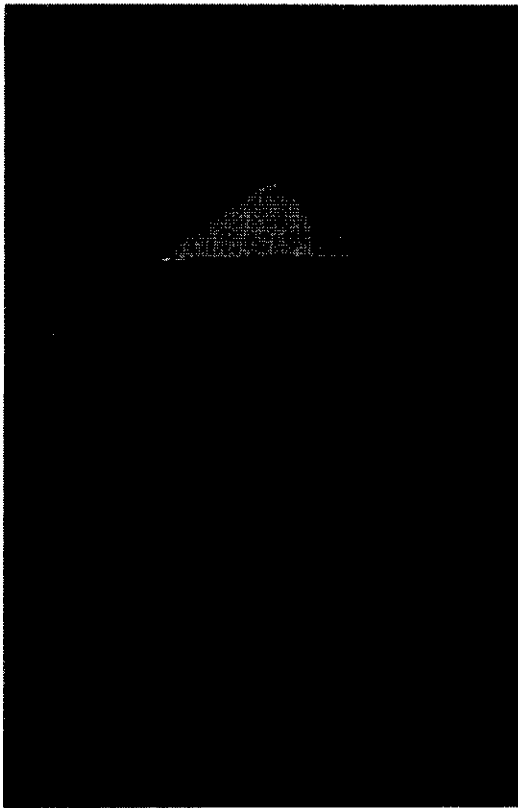
	Number	Percent	U.S.		
Population 25 years and over	345				
High school graduate or higher	290	84.1	80.4%	map	brief
Bachelor's degree or higher	31	9.0	24.4%	map	
Civilian veterans (civilian population 18 years and over)	50	13.0	12.7%	map	brief
Disability status (population 5 years and over)	104	18.9	19.3%	map	brief
Foreign born	1	0.2	11.1%	map	brief
Male, Now married, except separated (population 15 years and over)	129	70.5	56.7%		brief
Female, Now married, except separated (population 15 years and over)	130	56.3	52.1%		brief
Speak a language other than English at home (population 5 years and over)	18	3.3	17.9%	map	brief

Economic Characteristics - show more >>

	Number	Percent	U.S.		
In labor force (population 16 years and over)	263	65.1	63.9%		brief
Mean travel time to work in minutes (workers 16 years and over)	24.2	(X)	25.5	map	brief
Median household income in 1999 (dollars)	37,656	(X)	41,994	map	
Median family income in 1999 (dollars)	47,083	(X)	50,046	map	
Per capita income in 1999 (dollars)	14,505	(X)	21,587	map	
Families below poverty level	3	2.0	9.2%	map	brief
Individuals below poverty level	26	4.5	12.4%	map	

Housing Characteristics - show more >>

	Number	Percent	U.S.		
Single-family owner-occupied homes	151				brief
Median value (dollars)	52,300	(X)	119,600	map	brief



EFFINGHAM, KA

HOME OF THE TIGERS

City Contact Information:

City Office-414 Main St.

Clerk-Pat Strine, Office 913-833

City Manager-Gary Moore 913-833

Email: effcity@carsoncomm.com

Emergencies Call **911**

City Council phone email

James Potts-Mayor	913-833-9381	overgoods@yahoo.com
Kirk Kloepper	913-833-5421	
Mike Gerety	913-833-2465	
Mark Hurst	913-833-5231	
Robert Blunt	913-833-9351	

City of Effingham Links & Table of Contents

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Effingham Community Library
Library Director: Rosie Falk
414 Main Street Box 189
Effingham, Kansas 66023
913-833-5881
efflibrary@yahoo.com

Hours:

Monday 1:00pm-5:00pm

Wednesday 9:00am-12:00pm, 1:00pm-5:00pm

Thursday 1:00pm-5:00pm

Saturday 9:00am-12:00pm

Board Meets First Monday 4:30PM Alternating Months**Services:**

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Noxious Weed

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County Lake

Drivers License


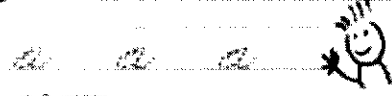
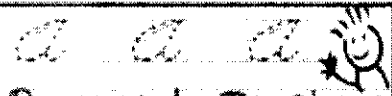
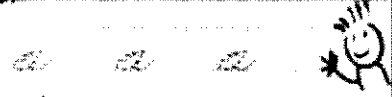
ATCHISON COUNTY – FIRE DISTRICTS

DISTRICT	NAME	ADDRESS	CITY	ST	ZIP
FIRE DISTRICT #1	Scott Aversman	16968 286 th Rd	Atchison	Ks	66002
FIRE DISTRICT #2	Eric Noll	5348 Dickinson Road	Effingham	Ks	66023
FIRE DISTRICT #3	Lois Servaes	4914 Sherman Road	Atchison	Ks	66002
FIRE DISTRICT #4	Charles Cline	6301 Phillips Road	Atchison	Ks	66002
FIRE DISTRICT #5	Dwight Scholz	9345 286 th Road	Lancaster	Ks	66041
FIRE DISTRICT #12	Ron Davis	505 Locust	Nortonville	Ks	66060

Site Search



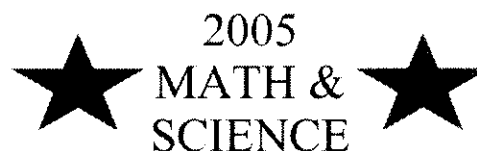
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Tiger Tracks
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Effingham Elementary School

306 Main Street
Effingham, KS 66023

STANDARD OF EXCELLENCE



Faculty
Second Grade News
Third Grade News

Mailing Address: 506 6th
Street, P O Box 289
Effingham, KS 66023-0289

Phone: 913-833-2200
Fax: 913-833-5411
Toll Free: 1-877-854-4589

ECSE Preschool: 913-833-
4547

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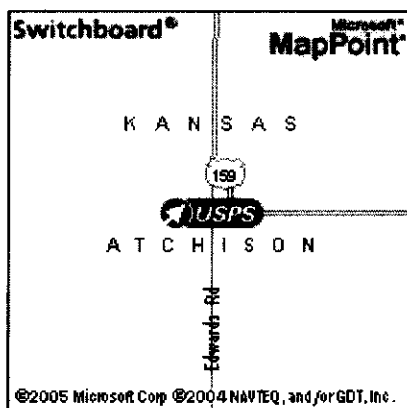
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Toll-free: (800)ASK-
USPS

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1-888-877-7833

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Business Hours

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TU 08:00-11:30AM 01:00-04:00PM
WE 08:00-11:30AM 01:00-04:00PM
TH 08:00-11:30AM 01:00-04:00PM
FR 08:00-11:30AM 01:00-04:00PM
SA 08:00-10:00AM

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MO 03:45PM
TU 03:45PM
WE 03:45PM
TH 03:45PM
FR 03:45PM

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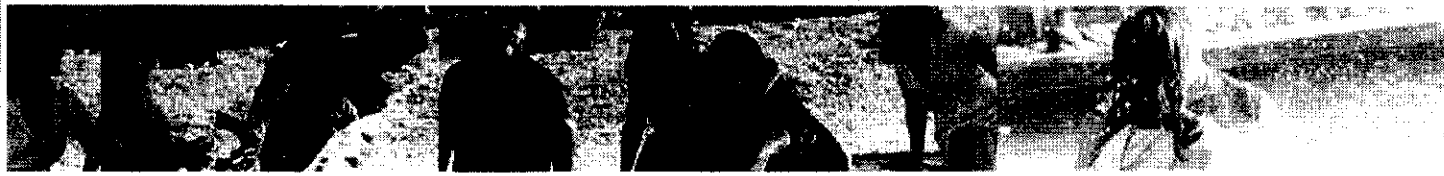
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Business Name:

Address:

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(913) 833-2000

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Effingham Christian Church
(913) 833-4201

3718 262nd Rd
Effingham, KS [Map](#)

Effingham City Clerk
(913) 833-4471

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Effingham City Shop
(913) 833-9511

310 Howard
Effingham, KS [Map](#)

Effingham County Landfill No 2
(913) 833-5445

9803 US Highway 159
Effingham, KS [Map](#)

Effingham Elementary School
(913) 833-2200

506 6th St
Effingham, KS [Map](#)

Effingham Lawn Mowers Sales
(913) 833-4966

6628 262nd Rd
Effingham, KS [Map](#)

Effingham Lock It & Leave It
(913) 833-9381

315 9th St
Effingham, KS [Map](#)

Effingham Market
(913) 833-5260

408 Main St
Effingham, KS [Map](#)

Effingham Mini Storage
(913) 833-2482

801 Howard St
Effingham, KS [Map](#)

Effingham Public Library
(913) 833-5881

414 Main St
Effingham, KS [Map](#)

Effingham Union Church
(913) 833-4481

515 Seabury St
Effingham, KS Map


Gonzales, Joyce - Effingham Professional Bldg
(913) 833-9741

512 Main St
Effingham, KS Map


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effingham

Effingham KS

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Effingham Union Church

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Effingham, KS 66023

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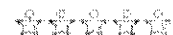


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